

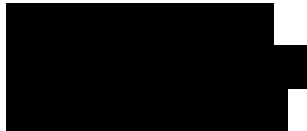


STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313
Telephone: (304) 352-0805 Fax: (304) 558-1992

Jeffrey H. Coben, M.D.
Interim Cabinet Secretary

Sheila Lee
Interim Inspector General

February 02, 2023



Re: [REDACTED] v. WV DHHR
ACTION NO.: 22-BOR-2536

Dear [REDACTED]:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29
cc: Lisa Snodgrass, Department Representative

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW**

██████████,

Defendant,

v.

Action Number: 22-BOR-2536

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Movant.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from an administrative disqualification hearing for ██████████, requested by the Movant on November 30, 2022. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia (WV) Department of Health and Human Resources' (DHHR) Common Chapters Manual and Federal Regulations at 7 CFR § 273.16. This fair hearing was convened on January 04, 2023, on an appeal filed November 30, 2022.

The matter before the Hearing Officer arises from a request by the Movant for a determination as to whether the Defendant has committed an Intentional Program Violation (IPV) and should therefore be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Lisa Snodgrass, Repayment Investigator, Investigations and Fraud Management (IFM). The Defendant failed to appear. The Department witness was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

M-1 Administrative Disqualification Hearing (ADH) Summary Completed by Lisa Snodgrass, dated November 09, 2022; Waiver of Administrative Disqualification Hearing, unsigned; Benefits Recovery Referral; Repayment Agreement, unsigned; Certified Tracking Receipt, dated November 18, 2022; WV DHHR Notice of Appointment, dated October 12, 2022; WV DHHR Notice of Rescheduled Appointment, dated October 27, 2022; and WV DHHR Notice of Appointment, dated October 27, 2022

M-2 WV SNAP Application, received October 23, 2020; and SNAP Application, signed February 03, 2021

M-3 WV PATH eligibility system printout of Case Comments, dated February 05

through April 07, 2021; SNAP Benefit Payment History, Employee Wage Data, dated December 2019 through April 2021; and WV RSDI Benefit Payment History, dated April 2014 through December 2021

M-4 WV DHHR Notice of Eligibility, dated February 22, 2021; and WV SNAP Income Chart

M-5 Food Stamp Claim Determination, dated February and March 2021; Food Stamp Claim Calculation Sheet, dated February 2021; Food Stamp Claim Calculation Sheet, dated March 2021; Food Stamp Claim Determination, dated April and May 2021; Food Stamp Claim Calculation Sheet, dated April 2021; Food Stamp Claim Calculation Sheet, dated May 2021

M-6 WV PATH eligibility system printout of Case Comments, dated April 21 through August 16, 2021; WV SNAP Application, dated August 12, 2021; WV PATH eligibility system printout of Case Comments, dated April 21 through August 16, 2021

M-7 WV RSDI Benefit Payment History, dated April 2014 through December 2021; and Employee Wage Data, dated December 2019 through April 2021; WV DHHR Notice of Wage Verification, dated April 27, 2022; Employment Data Form, completed April 29, 2022; Employment Wage History, dated July 01, 2021 through April 28, 2022; and WV PATH data exchange new hire details, dated March 01, 2002 through August 03, 2021

M-8 WV DHHR Notice of Wage Verification, dated April 27, 2022; Copy of WV DHHR Notice of Wage Verification, dated April 27, 2022; WV SNAP Income Chart; Food Stamp Claim Determination, dated August through December 2021; Food Stamp Claim Calculation Sheet, dated August 2021; Food Stamp Claim Calculation Sheet, dated September 2021; Food Stamp Claim Calculation Sheet, dated October -November 2021; Food Stamp Claim Calculation Sheet, dated December 2021; WV PATH eligibility system printout of Case Comments, dated September 09, 2021 through December 13, 2021; WV PATH data exchange paris match veterans, dated December 13, 2021; WV DHHR Notice of Wage Verification, dated April 27, 2022; VA Benefit Payment History, dated December 30, 2021 through April 29, 2022; WV DHHR SNAP Rights and Responsibilities, signed November 30, 2021; and WV PATH screen print SNAP IPV disqualification history

M-9 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.3.F.2 – 1.2.5; WVIMM §§ 10.4.2.C - 10.4.2.D; WVIMM §§ 3.2.1 - 3.2.3; WVIMM §§ 1.4.1 - 1.4.12.B; WVIMM §§ 3.2.1.B.5 - 3.2.1.C; WVIMM §§ 4.4.3 - 4.4.3.A; WVIMM §§ 11.2.1 - 11.2.5; WVIMM §§ 11.6.1 - 11.6.2; and Code of Federal Regulations 7 CFR § 273.16

Defendant's Exhibits:

NONE

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Investigation and Fraud Management (IFM) Unit of West Virginia Department of Health and Human Resources (WVDHHR) alleged an act of Intentional Program Violation

(IPV) by the Defendant for withholding information regarding household income, resulting in an over-issuance of SNAP and is requesting that he be disqualified from participation in SNAP for a period of twelve (12) months.

- 2) The Defendant was a recipient of SNAP benefits for a two (2) person Assistance Group (AG). (Exhibits M-1 through M-8)
- 3) On February 05, 2021, the Defendant completed a SNAP Application and reported unearned income received by [REDACTED] as the only source of income in her AG. (Exhibit M-3)
- 4) On October 23, 2020, February 03, 2021, and August 12, 2021, the Defendant signed rights and responsibilities forms consenting that the information contained was true and correct to the best of her knowledge. (Exhibit M-6)
- 5) On February 22, 2021, a Notice of Eligibility was issued advising the Defendant to contact the WV DHHR office if the gross income of all individuals included in the SNAP AG increases to more than \$2874.00 per month.
- 5) The Respondent verified through the WV PATH employee wage data system that the Defendant had both, earned and unearned income, since the first quarter of 2019. (Exhibit M-7)
- 6) The Defendant has no previous history of Intentional Program Violations (IPVs). (Exhibit M-8)

APPLICABLE POLICY

Code of Federal Regulations (CFR) § 273.16 provides, in part:

An individual making a false or misleading statement, or misrepresenting, concealing, or withholding facts, violating the Food Stamp Program (SNAP), or any State statute for the purpose of acquiring, receiving, possessing, or trafficking of coupons, authorization cards, or reusable documents used as part of an automated benefit delivery system has committed to an Intentional Program Violation (IPV).

West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 Client Responsibility provides, in part:

The client's responsibility is to provide complete and accurate information about his circumstances so that the Worker can make a correct determination about his eligibility.

WV IMM § 3.2.1.B.5 provides, in part:

Persons who have been found guilty of an IPV are disqualified as follows: First offense, One-year disqualification; Second offense, Two-year disqualification; and Third offense, permanent disqualification.

WVIMM §§ 6.1-6.1.2 Data Exchanges provides, in part:

Federal Data Hub and Income and Eligibility Verification System (IEVS) are electronic sources that perform data matches to verify types of income/assets. Data exchange information available at application and review may be used by the Worker to evaluate discrepancies in the client's statement when it disagrees with Hub data.

Information is provided to the Worker through data exchanges. Information obtained through IEVS is used to verify the eligibility of the AG, to verify the proper amount of benefits, and to determine if the AG received benefits to which it was not entitled.

WV IMM § 11.2.3.B provides, in part:

IPVs include making false or misleading statements, misrepresenting facts, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits.

The client(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

WV IMM § 11.6.1 provides, in part:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false.

DISCUSSION

Federal regulations define an Intentional Program Violation (IPV) as making a false statement related to the acquisition of Supplemental Nutrition Assistance Program (SNAP) benefits. The Movant requested the Administrative Disqualification Hearing to determine whether the Defendant committed an IPV and should be disqualified from SNAP benefits for a period of twelve (12) months. The Movant must provide clear and convincing evidence that the Defendant intentionally made false statements, concealed, or withheld facts concerning her SNAP eligibility.

On October 23, 2020, the Defendant completed an application for SNAP benefits and reported unearned income received by [REDACTED] as the only source of income in her AG. The Defendant signed the application and acknowledged the information provided was true and correct to the best of her knowledge; however, she failed to report her own monthly earned and unearned income on the form or during her interview.

On February 03, 2021, the Defendant submitted a new application for healthcare benefits and reported unearned income received by [REDACTED] as the only source of income in her AG. The Defendant signed the application and acknowledged the information provided was true and correct to the best of her knowledge; however, she again failed to report she failed to report her own monthly earned and unearned income.

The Movant, through its investigation, by way of Lisa Snodgrass, Repayment Investigator, Investigations and Fraud Management (IFM), confirmed via the WV PATH employee wage data system that the Defendant had received both, earned and unearned income, since the first quarter of 2019 - during and beyond the date of her October 23, 2020, February 03, 2021, and August 12, 2021, benefit applications.

The Movant established by clear and convincing evidence that the Defendant made false statements at the time of both applications to acquire SNAP benefits she was not entitled to receive, thereby committing an IPV.

Pursuant to the regulations, individuals found to have committed an IPV through an ADH shall be ineligible to participate in SNAP for a specified time, depending on the number of offenses committed. Because the Defendant had no previous history of IPV disqualification penalties, a first-offense twelve (12) month disqualification penalty will be imposed, beginning in accordance with timelines established in the federal regulations.

The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

CONCLUSIONS OF LAW

- 1) By failing to report unearned household income, the Defendant made a false statement to obtain SNAP benefits, which constitutes an IPV.
- 2) Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits.
- 3) Because the IPV is a first offense, the disqualification period is twelve (12) months beginning March 01, 2023.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program

Violation (IPV). The Defendant will be disqualified from receipt of SNAP benefits for a period of twelve (12) months, beginning March 01, 2023.

ENTERED this ____ day of February 2023.

Angela D. Signore
State Hearing Officer